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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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KENT TERRY PRISBREY,

Plaintiff,

v.

STATE AUTO INSURANCE COMPANIES,  
MILBANK INSURANCE COMPANY; and  
DOES A-Z,

Defendants.

**MEMORANDUM DECISION AND  
ORDER REGARDING ATTORNEY FEES**

Case no. 4:21-cv-00124-DN

District Judge David Nuffer

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On April 15, 2024, Plaintiff filed a document purporting to certify that he satisfied the two court-ordered awards of attorneys' fees to Defendants.<sup>1</sup> Defendants filed an Objection to the tender,<sup>2</sup> and presented evidence that Plaintiff tendered to defense counsel two cellophane-wrapped packages of what purported to be Zimbabwean legal tender in the amount of 12,500 Zimbabwean dollars.<sup>3</sup> Defendants seek entry of an order regarding the attorneys' fees awards, to include an award of additional fees necessitated by Plaintiff's faulty tender, to avoid similar future improper actions of Plaintiff.<sup>4</sup>

There can be no mistake that the clear and plain language of the court orders awarding attorneys' fees to Defendants awarded the sums in US dollars.<sup>5</sup> Plaintiff was and is well aware

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<sup>1</sup> Certification of Tender of Payment for Attorney Fees, [docket no. 171](#), filed Apr. 15, 2024.

<sup>2</sup> Defendants' Verified Objection to Plaintiff's "Certification of Tender of Payment for Attorney Fees" ("Objection"), [docket no. 173](#), filed Apr. 22, 2024.

<sup>3</sup> Tender of Payment for Attorney Fees, [docket no. 173-1](#), filed Apr. 22, 2024; Photos of Zimbabwean Dollars, [docket no. 173-2](#), filed Apr. 22, 2024.

<sup>4</sup> Objection at 3.

<sup>5</sup> Memorandum Decision and Order Regarding Attorney Fees, [docket no. 94](#), filed June 6, 2023; Memorandum Decision and Order Granting Motion for Attorney's Fees, [docket no. 162](#), filed Feb. 7, 2024.

that his payment of the attorneys' fees awards to Defendants must be made in US dollars. And Plaintiff's attempt to satisfy his obligation through tender of Zimbabwean dollars is another example of his repeated flouting court orders and impeding the just and speedy resolution of this case. Such conduct of Plaintiff is what precipitated the attorneys' fees awards to Defendants, and will not be further tolerated.

Defendants' Objection<sup>6</sup> is SUSTAINED. Defendants are awarded their reasonable attorneys' fees necessitated by Plaintiff's intentional improper tender, which total \$462.50.<sup>7</sup> Plaintiff is also given notice that any further conduct demonstrating his willful failure to comply with court orders will result in the issuance of an order to show cause, a finding of contempt, and the imposition of additional monetary sanction against him.

### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that:

1. Defendants' Objection<sup>8</sup> is SUSTAINED.
2. Plaintiff shall pay to Defendants reasonable attorneys' fees in the amount of \$4,779.50 US dollars for the reasons set forth in the Memorandum Decision and Order Regarding Attorney Fees dated June 6, 2023.<sup>9</sup>
3. Plaintiff shall pay to Defendants reasonable attorneys' fees in the amount of \$7,676.00 US dollars for the reasons set forth in the Memorandum Decision and Order Granting Motion for Attorney's Fees dated February 7, 2024.<sup>10</sup>

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<sup>6</sup> [Docket no. 173](#), filed Apr. 22, 2024.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> [Docket no. 173](#), filed Apr. 22, 2024.

<sup>9</sup> [Docket no. 94](#), filed June 6, 2023.

<sup>10</sup> [Docket no. 162](#), filed Feb. 7, 2024.

4. Plaintiff shall pay to Defendants reasonable attorneys' fees in the amount of \$462.50 US dollars in connection with Plaintiff's "Certification of Tender of Payment for Attorney Fees" filed April 15, 2024,<sup>11</sup> and Defendants' Objection thereto filed April 22, 2024.<sup>12</sup>

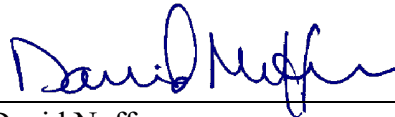
5. Based on the foregoing, the total amount due and owing from Plaintiff to Defendants is \$12,918.00 US dollars.

6. Defendants are directed to return to Plaintiff the improperly tendered 12,500 Zimbabwean dollars.

7. Any further conduct demonstrating Plaintiff's willful failure to comply with court orders will result in the issuance of an order to show cause, a finding of contempt, and the imposition of additional monetary sanction against him.

Signed May 2, 2024.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>11</sup> [Docket no. 171](#), filed Apr. 15, 2024.

<sup>12</sup> [Docket no. 173](#), filed Apr. 22, 2024.